

November 27, 2007



**TRANSCRIPT
November 27, 2007**

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Marilyn J. Praisner, President	Councilmember Michael Knapp, Vice President
Councilmember Phil Andrews	Councilmember Roger Berliner
Councilmember Marc Elrich	Councilmember Valerie Ervin
Councilmember Nancy Floreen	Councilmember George Leventhal
Councilmember Duchy Trachtenberg	



November 27, 2007

1 Vice President Knapp,
2 Good morning everyone, welcome. We'll begin this morning with invocation by
3 Reverend Connie Paulson of Millian Memorial United Methodist Church in Rockville.
4 While she's coming up to the podium, I just wanted to also remind us all to keep our
5 Council President, Mrs. Praisner, in your thoughts and prayers. She continues to be
6 making amends and moving forward. And I think she's moving out of ICU today or
7 tomorrow; so we're looking forward to her continued improvement. And also Gerri Mell,
8 who is one of our receptionists downstairs, who underwent heart surgery yesterday,
9 who is also recovering and is resting comfortably at home today. And so we'll keep both
10 of those people in our thoughts and prayers as we have our invocation. Please rise.

11
12 Reverend Paulson,
13 And as I begin, I'd like to salute all of the adoptive parents. I just learned that this
14 morning who are here today. I am also an adoptive parent and I salute you for opening
15 your hearts and your homes to those children. Let's be together in prayer. God, our
16 creator, we thank you for the gift of this day that you have given to us and the gift of life.
17 Even as we are grateful for many blessings, we remember those who are in need and
18 those who are hurting. We continue to pray for Marilyn's recovery and pray your
19 blessings on her. So today guide this Council, these elected officials, as they deliberate
20 on fiscal responsibility concerns, and also the challenges through education for our
21 children and our youth. There are many concerns; there are many joys. So we thank
22 you for the opportunity to serve you through this body, through the county government.
23 We thank you for all these blessings. Amen.

24
25 Vice President Knapp,
26 Amen. Thank you. We begin this morning with two presentations. Our first is a
27 proclamation in recognition of Becky Wagner, recipient of the Meyer Foundation
28 Exponent Award by Councilmember Floreen.

29
30 Councilmember Floreen,
31 Ms. Wagner and perhaps her team [inaudible]. I'm not sure how much everyone
32 appreciates Becky Wagner, who is indeed the Energizer Bunny of the nonprofit world in
33 Montgomery County. And, Becky, I want you to notice [inaudible] all the way for you.
34 We have given you an actual frame. We have given you a suitable for framing right now,
35 which just shows you the esteem in which Montgomery County holds you. Becky has
36 just been awarded a tremendous foundation award from the Meyer Foundation. And we
37 are here to celebrate her award and community ministry work altogether. So let me read
38 this. Thank you. Whereas, the Meyer Foundation Exponent Award celebrates visionary
39 nonprofit leaders and awards a \$100,000 cash grant. And whereas, the Exponent
40 Award is designed to support and sustain the most capable nonprofit leaders in the
41 great Washington region. And whereas, this year Rebecca Wagner, Executive Director
42 of the Community Ministry of Montgomery County, was selected as one of the five
43 recipients of this prestigious award. And may I note, we would have done that under any
44 circumstances if we'd known that we could get you this award. And whereas, under Ms.



November 27, 2007

1 Wagner's leadership our Community Ministries provide shelter, clothing, emergency
2 services, job training and case management for homeless adults and their families. And
3 whereas, Ms. Wagner led the organization through a remarkable period of growth over
4 the past six years increasing the budget from \$800,000 to more than \$3 million, and
5 taking the organization from 14 to 17 employees. And whereas, most importantly, last
6 year with the help of 7,000 volunteers, more than 33,000 men, women and children
7 received assistance. Now therefore be it resolved that the County Council of
8 Montgomery County, Maryland, hereby honors Rebecca Wagner for her undying
9 commitment to Montgomery County residents living in poverty and congratulates her on
10 receiving this well-deserved award.

11
12 Ms. Wagner,
13 Thank you.

14
15 Councilmember Floreen,
16 Thank you. And I wanted to say thank you to Community Ministry staff for your hard
17 work and keeping Becky Wagner going, and providing the services that our residents so
18 desperately need. So thank you. Would you like to say anything, Becky?

19
20 MS. Wagner,
21 I would just [inaudible]. I'm usually on the other side of this mic. I would just like to say
22 that it takes this team any kind of vision or leadership I have really doesn't work until it
23 gets implemented at the front line. And these folks and those 7,000 volunteers and our
24 partners in the community sharing a value for a beloved community. The
25 Councilmembers -- I don't know where to turn my back to -- I, you know, except when
26 we're in some contentious discussion across from this table, I brag about you.

27
28 Councilmember Floreen,
29 Really.

30
31 Ms. Wagner,
32 When I'm in regional meetings and when I'm in a state meeting, because I really believe
33 you get it. I believe you care as much as we do at Community Ministry about creating a
34 community where there's access and opportunity. We sometimes don't agree on how to
35 get there, but I cherish that we have elected officials and partners in the community that
36 share our vision.

37
38 Councilmember Floreen,
39 And isn't she good. You always thank the audience. Do you want to take a picture?

40
41 Vice President Knapp,
42 Thank you. Thank you very much. And we thank you all for your efforts. We have a
43 second presentation. Proclamation recognition of November as Adoption Month by
44 Councilmember Leventhal.



November 27, 2007

Councilmember Leventhal,

Thank you, Mr. President. I am recovering from an automobile accident and my face is not fully flexible, so I'm not able to smile. And so I just want to let you know that my lack of smiling is not an absence of happiness in greeting these wonderful, wonderful families; and when I pose for the photograph, again, I don't mean to look dour, it's just simply that my -- the muscles in my face are still regaining their ability to smile. But I'm filled with joy to welcome these families, Beverly Wright, Geraldine Wright, Jewel Wright, Cheryl Epps, Harris Leonard and Trina Leonard. And then also with us are Agnes Leshner, our Director of Child Welfare, and Kate Garvey, who is Director of Children, Youth and Families for Montgomery County. And these leaders in public policy have one of the greatest challenges to recruit families like the Wrights and the Epps and the Leonards who make the greatest gesture of love that anyone could make, and that is to allow those children who need a home and who need love and who need a place to grow and prosper to have a safe home. And so it's really a tremendous privilege today to recognize that November 2007 is Adoption Month in Montgomery County, and to award this proclamation that -- I won't read the whole thing, but it states that all children deserve strong families with parents who are there to protect and love them, but the reality is that many children in our community are separated from their families due to abuse and neglect. And we're so fortunate in Montgomery County to have those families who step up to this critically important responsibility, because what responsibility could be more important than the responsibility of being a parent and of providing love and of welcoming young people into their homes. So thank you so very, very, very much to these families. We're very grateful. And we resolve that the County Council of Montgomery County, Maryland, proclaims November 2007 Adoption Month in Montgomery County, and we recognize the compassion of adoptive families, and renew our pledge to find permanent, loving and stable homes for children in need. Now I haven't met Trina Leonard; who's Trina.

Ms. Leonard,
I'm Trina.

Councilmember Leventhal,

Hi, nice to see you. Trina was Chief of Staff to Councilmember Gale Ewing at the County Council. And Councilmember Roger Berliner, himself, is an adoptive parent. So we have, I hope, led by example both with our own members of the County Council and with our staff. And it's very, very important to do that, and when you meet adoptive parents to thank them and to appreciate the critically important gift of love that they give. I'm going to award this to Kate and Agnes, but it's really being accepted on behalf of all of the adoptive parents in Montgomery County. Good job. And then let's have Agnes Leshner say just a few words on behalf of these parents and on behalf of our Child Welfare program.

Ms. Leshner,



November 27, 2007

1 We're very, very fortunate and we're very appreciative of the parents who have adoptive
2 these children. I'd like to just sort of encourage anybody in the audience or out there
3 who has an open heart and a willing family that we do have children waiting for
4 adoption. Many of our wonderful social workers who work with the adoptive families are
5 here today and would be glad to work with anybody who came forward and would be
6 willing to consider adoption. So thank you to these families, and the many families who
7 have adopted during the past years.

8
9 Vice President Knapp,
10 Well two wonderful proclamations this morning. Thank you to Councilmember Floreen
11 and Leventhal for sponsoring the proclamations. And thank you to all of this morning's
12 participants. General business, Ms. Lauer.

13
14 Ms. Lauer,
15 Good morning. We have a couple changes today; one is the addition on the consent
16 calendar of Item E Action to extend the expiration date of a temporary reg having to do
17 with home confinement service fees. Also, just a note that the public hearing this
18 afternoon on the Spending Control Limits for WSSC, action is deferred -- the hearing
19 will be held but action is deferred for another week. And just a reminder also that this
20 afternoon's meeting with the School Board is at the school system over there at MCPS;
21 so that's just a reminder for you. We did receive one petition and that was from some
22 residents opposing Bill 23-07 on Gender Identity. That's it.

23
24 Vice President Knapp,
25 Thank you very much. Now move to the minutes -- approval of minutes, Madam Clerk.

26
27 Council Clerk,
28 You have the minutes of November 13th for approval.

29
30 Vice President Knapp,
31 Do I have a motion?

32
33 Councilmember Trachtenberg,
34 So moved.

35
36 Vice President Knapp,
37 Moved by Councilmember Trachtenberg. Is there a second?

38
39 Councilmember Ervin,
40 Second.

41
42 Vice President Knapp,
43 Seconded by Councilmember Ervin. All in favor? That is unanimous among those
44 present. Consent calendar; is there a motion?



November 27, 2007

Councilmember Andrews,
So moved.

Vice President Knapp,
Mr. Andrews. Seconded by Mr. Elrich. Any comments? I see no comments. All in favor of the consent calendar? That is unanimous among those present. Thank you very much. We now turn to District Council Session. And we have action and consideration of Hearing Examiner's report and recommendation for Application number G-851. Good morning.

Ms. Carrier,
Hello.

Vice President Knapp,
How are you?

Ms. Carrier,
I'm fine, thank you.

Vice President Knapp,
Good.

Ms. Carrier,
This case comes to you with recommendations of approval from myself and the staff and the Planning Board. There are two errors in the resolution that I'd like to point out to you. And I would propose to correct them if the resolution is adopted. The first one is on page 5, the numbered paragraph 1 the second line is missing some language. That paragraph -- the first sentence should read "uses limited to general, professional and business offices in the existing building; and the same in the new buildings, excluding medical practitioners." That was an important point with regard to traffic, because office buildings with medical practitioners have a higher parking requirement than general offices.

Vice President Knapp,
Just repeat that one more time.

Ms. Carrier,
Sure. After the semicolon at the end of the first line of paragraph 1 it should read: "and the same in the new buildings, excluding medical practitioners."

Councilmember Floreen,
Are you saying that you mean that the uses in the new buildings are also limited to these the general, professional and business offices excluding medical practitioners.



November 27, 2007

1
2 Ms. Carrier,
3 The existing zoning -- .

4
5 Councilmember Floreen,
6 Is that what you said? Is that the point?

7
8 Ms. Carrier,
9 The point is that the existing building is a medical office building. It does not exclude
10 medical practitioners.

11
12 Councilmember Floreen,
13 So what is this saying?

14
15 Ms. Carrier,
16 The new buildings -- .

17
18 Vice President Knapp,
19 New buildings.

20
21 Ms. Carrier,
22 Would be -- would exclude medical practitioners in order to avoid a parking problem.

23
24 Councilmember Floreen,
25 I understand that, but your words are what confuse me.

26
27 Ms. Carrier,
28 Well. And the same uses; perhaps that would be more clear. Uses limited to general,
29 professional and business offices in the existing building and the same uses; perhaps
30 that would be better. The same uses in the new buildings, excluding medical
31 practitioners; is the whole thing not working for you?

32
33 Councilmember Floreen,
34 Well that's somewhat better. Thank you.

35
36 Vice President Knapp,
37 Okay, and you had additional?

38
39 Ms. Carrier,
40 Yeah. The next page numbered paragraph 4 is missing two words in the second line
41 after the -- well I'll read the sentence: "land uses in a 30 foot strip between the eastern
42 property line of the subject property and the paved area for vehicular circulation shall be
43 limited to a six-foot board-on-board fence shade trees and evergreen plantings on both
44 sides of the fence." The words "limited to" somehow escaped my initial drafting efforts.



November 27, 2007

1
2 Vice President Knapp,
3 Okay, and those are the only two corrections?

4
5 Ms. Carrier,
6 That's it.

7
8 Vice President Knapp,
9 Okay.

10
11 Ms. Carrier,
12 I'd be happy to answer questions if anyone has any.

13
14 Vice President Knapp,
15 Mr. Berliner.

16
17 Councilmember Berliner,
18 Thank you, Vice President Knapp. Insofar as this is another one of those in District 1, it
19 is a matter that my staff and I spent a little time looking at. And as I appreciate it -- one, I
20 commend you for your Solomon-like decision with respect to this -- that there is an
21 overarching issue that you have compromised, if you will, with respect to and that you
22 have articulated as being somewhat ambiguous in terms of the statutory construction, if
23 you will.

24
25 Ms. Carrier,
26 Yes.

27
28 Councilmember Berliner,
29 And if I -- let me try and phrase it and if I phrase it incorrectly, please let me know.

30
31 Ms. Carrier,
32 Okay.

33
34 Councilmember Berliner,
35 Essentially what you are raising is the extent to which this Council -- and it adopted a
36 ZTA back in '78 and then amended it thereafter, intended to permit very specific binding
37 elements. How specific?

38
39 Ms. Carrier,
40 Right.

41
42 Councilmember Berliner,
43 And the overarching issue is how specific should we be in binding elements, and what
44 should be left for site plans later on.



November 27, 2007

1
2 Ms. Carrier,
3 Yes.

4
5 Councilmember Berliner,
6 The Planning Board came in and suggested that it should be site plan should have
7 much more of the action, if you will. We shouldn't have many binding elements. The
8 community originally came in and said we want everything to be binding. And you, if you
9 will, came in the middle in an answer that -- in a resolution that satisfied the community
10 most importantly.

11
12 Ms. Carrier,
13 Yes.

14
15 Councilmember Berliner,
16 But leaves open, if you will, the larger question. You resolved it here in a manner that
17 seems to be appropriate, but what I -- the reason I raise this is I do believe that the
18 PHED Committee should perhaps -- and, Jeff, I look forward to your observations with
19 respect to this -- that given that you've raised this larger statutory ambiguity, it does
20 seem as if this Council ought to, in a different context and a larger context, assess that
21 ambiguity and the PHED Committee perhaps would be the most appropriate place to
22 start that. Jeff, does that seem like a fair characterization?

23
24 Mr. Zyontz,
25 When I read the Hearing Examiner's report, I had the same type of question, which is, is
26 this really a direction for a Zoning Text Amendment to clarify. Although it was done I
27 think appropriately in the opinion itself, it still leaves what is the Council's intent going
28 forward. And certainly you have the opportunity to decide the issue in any manner you
29 see fit. So certainly if you wish to go forward the Zoning Text Amendment that would
30 affect prospective cases that would be fine.

31
32 Councilmember Berliner,
33 I think that the PHED Committee should in the first instance have some review of this
34 matter and we ought to get some recommendations there. But I believe your resolution
35 here is certainly appropriate and commend you for it, but do think it raises something
36 that we need to think about in the future.

37
38 Ms. Carrier,
39 The language has been like that for many, many years and we have -- the Council has
40 adopted a variety of -- has approved a variety of schematic development plans. In this
41 case the issue was really brought to the fore by the Planning Board recommending that
42 some of the things that applicant has proposed as binding elements should be binding
43 elements. The Planning Board obviously did not have the chance to look at the final sort
44 of -- the final schematic development plan that I have recommended to you. I suspect



November 27, 2007

1 that they would be fairly comfortable with it because the one item that they proposed to
2 be not binding that I propose to be binding, I believe the way that it's written it falls
3 comfortably within the description of limiting the land uses on the property. And the
4 elements that are design elements on the schematic that I've recommended I feel are
5 pretty clearly better suited to site plan. So I suspect the Planning Board will be
6 comfortable with this although it procedurally it didn't go back to them for them to see
7 that, you know. They -- that's just not the way it worked out. So I think it's -- with the
8 interpretation that I've put down, if the Council is comfortable with that, I think it's
9 workable to go forward with it. If the Council would like to clarify, obviously, you know,
10 that, you know, there's no harm in clarification. But that would mean that the Council
11 would have to think about, you know, which way you want to go. Exactly whether you --
12 if you like the interpretation that I came up with, you can maybe adjust the language to
13 fit that interpretation so it's more obvious. If you want to go -- make it narrower or
14 broader, then that would obviously be a policy decision.

15
16 Councilmember Berliner,
17 Thank you.

18
19 Vice President Knapp,
20 Ms. Floreen.

21
22 Councilmember Floreen,
23 Thank you. I just wanted to say that the Planning Board is doing a presentation on form-
24 based codes this Saturday. I'm sure Mr. Berliner will be there.

25
26 Councilmember Berliner,
27 In fact, I looked at my calendar just the other day and said, you know, I really need
28 something to do on Saturday.

29
30 Councilmember Floreen,
31 Exactly.

32
33 Councilmember Berliner,
34 And form-based codes, I just can't wait.

35
36 Councilmember Floreen,
37 We are reviewing -- well we think we are. It took a ways to handle these sorts of things.
38 So perhaps that will be an opportunity where -- the question of where the details get put,
39 which is what it is -- can be examined in a broader context. Sometimes it's better;
40 sometimes it's worse. I know a lot of the issues have to do with enforceability 10 years
41 after the fact. So that's the tricky part. And I see Mr. Knopf out there, and I'm sure he'll
42 be there on Saturday too. Good. Love a cup of coffee.

43
44 Vice President Knapp,



November 27, 2007

1 Okay. I see no additional comments. Madam Clerk, you can call the roll.

2

3 Council Clerk,

4 Ms. Ervin.

5

6 Councilmember Ervin,

7 Yes.

8

9 Council Clerk,

10 Mr. Elrich.

11

12 Councilmember Elrich,

13 Yes.

14

15 Council Clerk,

16 Ms. Floreen.

17

18 Councilmember Floreen,

19 Yes.

20

21 Council Clerk,

22 Ms. Trachtenberg.

23

24 Councilmember Trachtenberg,

25 Yes.

26

27 Council Clerk,

28 Mr. Leventhal.

29

30 Councilmember Leventhal,

31 Yes.

32

33 Council Clerk,

34 Mr. Andrews.

35

36 Councilmember Andrews,

37 Yes.

38

39 Council Clerk,

40 Mr. Berliner.

41

42 Councilmember Berliner,

43 Yes.

44



November 27, 2007

1 Council Clerk,
2 Mr. Knapp.

3
4 Vice President Knapp,
5 Yes. Motion carries.

6
7 Mr. Zyontz,
8 The motion was to approve as recommended by the Hearing Examiner?

9
10 Vice President Knapp,
11 Yes. The little details; see that's why you have this ramp-up period here. Okay. Moving
12 from fairly good news to somewhat less good news, we now have a briefing on the
13 fiscal update from Mr. Beach, Director of Office of Management and Budget. Briefly,
14 what I would like -- I had the opportunity yesterday to sit in the MFP Committee with
15 Chair Trachtenberg and Mr. Berliner to listen to the first presentation of what Mr. Beach
16 is going to present to us. And it's clearly a sobering discussion that we're going to have.
17 I don't know that it comes across as a huge surprise to anyone given the numbers that
18 we've seen previously; although, I think there a couple issues that have shown up
19 sooner than I think what some of us had anticipated. I think the simple point is that
20 clearly the next seven months we're going to have some challenges in front of us as it
21 relates to the budget. I think practically though it's important to remember that these
22 things happen. We go through these cycles. It happened four years ago; it happened six
23 years before that. And the reality is that we -- the Executive will submit a budget to the
24 Council in March. That budget will be balanced. The Council will then go through all the
25 various pieces. And we will at the end of the day approve a balanced budget because
26 that's we're there to do. And so there will be no budget gap. The gap that we're going to
27 hear about from Mr. Beach of \$400 million -- at least as it's currently projected, is clearly
28 the largest we've seen, I think, in absolute dollar terms, but when you go back and look
29 at what we -- what the Council faced four years ago as a relative percent of the budget,
30 what we dealt with four years was actually a larger number and not without a little bit of
31 pain, but we managed to get through that issue and I have no doubt that we will get
32 through this one as well. I believe what Mr. Beach will present to us are some
33 recommendations from the Executive as to some ways to begin to identify current
34 savings. And I think -- I agree, and I think the rest of the Council will, that we certainly
35 need to do things quickly. And look forward to hearing the update and then some
36 comments as to whatever the proposal the Executive puts before us once we conclude.
37 I just want to turn to the Chair of the MFP Committee and see if she had any opening
38 remarks since she heard a bit of this presentation yesterday.

39
40 Councilmember Trachtenberg,
41 Thank you, Vice President Knapp. I would echo what has been voiced by our Vice
42 President around the discussion having been sobering. And I had some time last night
43 to reflect on really the content around the deficit -- the \$400 million. But I also thought
44 about the fact that there's an immediate need here for an action plan to be developed,



November 27, 2007

1 and clearly a plan that has adequate input from this body. And I want to make to make
2 very clear that I would hope that within the confines of MFP we can start to have that
3 dialogue over the next few weeks and months come to some decisions about how we
4 are going to cope with this deficit, but also what's ahead, because there are other things
5 no doubt that are ahead. And I don't want to be overly negative; however, I think it's
6 important that we be prepared for what could very easily be a perfect storm. But I again
7 appreciate the presentation that was made to my committee yesterday. And I know that
8 my colleagues will no doubt have some thoughts about the presentation this morning.

9
10 Vice President Knapp,

11 No, and building upon that, I think it's going to be important that the Council clearly, as
12 the appropriator of funds, plays a significant role in partnership with the Executive as
13 how we proceed. And so we are here with our sleeves rolled up ready to dig in and look
14 forward to whatever proposals the Executive sends us as soon as he sends them to us.
15 With that, Mr. Beach, I let you have the floor.

16
17 Mr. Beach,

18 Okay. Thank you and thank you for making time for this presentation on such short
19 notice. I appreciate that. The County Executive did want me to come here and brief you
20 all on the fiscal situation now, as we understand it. As you mentioned and in Mr.
21 Ferber's packet, the projected gap for FY09 at this point is about \$401 million. The main
22 contributors to that gap on the resource side in any projected gap is just based on a set
23 of assumptions. Property taxes are at the charter limit and assumed there. We've had
24 significant declines in what we were projected for the income tax revenues between 08
25 and 09 of about \$107 million, and recordation tax and transfer tax of about \$71 million.
26 David Platt could explain in more detail the basis for those revised numbers, but I think
27 it's obvious to everyone the weakness in the local housing market, and some of the
28 uncertainty in the economy right now. On the expenditure side, we've updated that
29 service based on the spending affordability guidelines for the higher general obligation
30 bond limits. We're projecting agency expenditure growth in 09 at the 10-year average
31 for the last year; that's about 7.2% across all the four tax-supported agencies. We've
32 added to that the continued phase-in of the pre-funding for retiree health insurance; also
33 know as OPEB or Gasby 45. Last year the Council appropriated about \$32 million for
34 that purpose; in FY09 that would require an additional \$40 million. That would bring total
35 agency expenditure growth to about 8.5%. We've also added to our assumptions
36 projected supplemental appropriations during this year up about \$28 million; \$4.5 million
37 have already been approved so far by the County Council, and the additional would be
38 for things like snow removal, storm cleanup -- that's about \$15 million, as well as some
39 other expenditure requests that we're tracking and have been brought to us as well.
40 Some things that -- so those are the main contributors on the resource and the
41 expenditure side to that gap projection. We've tried to incorporate to the extent that we
42 knew about them and understood and had confidence in the changes at the State -- that
43 would be the Electric Deregulation Grant that was reduced by about \$2.8 million, and a
44 reduction in school aid. Basically what we did is we took out the GCEI that was at about



November 27, 2007

1 \$9.5 million; however, I understand that Schools is working at a more detailed level on
2 their projection and we're going to work with them. That may improve -- may improve
3 significantly. But at this point until we understood the basis for that projection better and
4 there is agreement with intergovernmental relations and ourselves finance and the
5 school board, we didn't want to use a more optimistic number and then have to pull that
6 back. So we're still working on that as well. We also did not make any assumption
7 related to income tax revenues on the change to the State made in personal
8 exemptions since the State increased the exemptions for certain income categories and
9 lowered them for others. That's going to have an impact on our collections locally. Some
10 estimates have been over \$11 million on that. It's going to affect every jurisdiction in one
11 or another in the state; until we've had a change to analyze in a little more detail we
12 haven't included that as well. Also some other things that are pending and out there is
13 the State did remove some exemptions to the transfer tax, also known as controlling
14 interests, that could also based on activities in the commercial real estate market could
15 have a positive impact on revenues as well. We need some time to evaluate that; some
16 further -- and also the State is going to reduce their own budget by \$400/\$500 million I
17 understand. That could have an impact on some of our funding formulas, possibly even
18 local aid as well. So we -- that's still out there as well. Now we did propose some
19 immediate steps in a memo that Mr. Leggett sent over last week, and we did
20 recommend a 2% across the board savings plan for all the tax supported agencies. And
21 we suggested a certain streamlined review process for that. Two percent is admittedly a
22 very aggressive at this point in the year especially level, and we do recognize the
23 Council has a role of course; it's in the budget resolution. We know about it historically
24 in reviewing and approving these savings plans. That was our proposal. That was our
25 recommendation, and we're certainly open to working with you all to craft a different
26 plan, a different review process, perhaps similar to what we've used in the past. And so
27 whether it's 2% or a different target, or we have certain exemptions and waivers, that's
28 something we all can work on and agree to. I think thought what's important to
29 recognize is that we take action now to the extent that we defer action from 08 until 09,
30 we're just deferring making some difficult decisions, and we're improving ability to
31 address this fiscal situation for FY09 sooner at this point. So I think that's the point that
32 we would like to get across. I mean we can work on what level what our targets are.
33 One further point though is to the extent that you start adding exemptions, waivers,
34 exceptions, things like that, it's going to make it that much more difficult to reach your
35 target and make the process even more agonizing than it could. And I just say that
36 based on experience. When you start exempting them because they're so small or it's
37 so urgent; these are -- as Mr. Farber points out, the appropriation is there for a purpose
38 that's been reviewed by all of us and it's there for a good purpose. So when you pull it
39 back it's going to be difficult regardless of that. So at this point I can take any questions
40 you might have, and also we have Mr. Hagedoorn and Mr. Platt if you had any
41 questions about the revenues as well.

42
43 Vice President Knapp,

44 As you might imagine, there are a number of questions. We'll go Ms. Floreen first.



November 27, 2007

1
2 Councilmember Floreen,
3 Thank you. I've heard that I -- we're going to meet with -- I think we're going to have a
4 legislative session after this, right?

5
6 Vice President Knapp,
7 Yes.

8
9 Councilmember Floreen,
10 So we'll get more details about what actually happened in Annapolis, which we're trying
11 to sort out. But do we know what the implications for the County will be on the
12 educational -- on the front associated with the slots referendum? If there is money that
13 could be -- that is dependent upon that referendum passing; do you know?

14
15 Mr. Beach,
16 Not specifically that I'm aware of.

17
18 Councilmember Floreen,
19 We'll ask -- well not this year, but the deficit you're looking at is not just this year, right?

20
21 Mr. Beach,
22 That's true. That's a very good point.

23
24 Councilmember Floreen,
25 So the question is are there income streams from the State that require that the
26 assumptions in that package in order to fund them. So okay, we'll I ask that [inaudible].

27
28 Vice President Knapp,
29 Ask that, but there are.

30
31 Councilmember Floreen,
32 I think that is the case.

33
34 Vice President Knapp,
35 It is the case. I was at the meeting this morning -- .

36
37 Councilmember Floreen,
38 It hasn't been stated too clearly for anyone to appreciate yet. So we're still sorting out
39 that. And the -- the issue of the exceptions -- exemptions that were passed by the
40 General Assembly won't affect this year's tax returns.

41
42 Mr. Beach,
43 I believe it's going to -- it will impact FY09 because [inaudible].
44



November 27, 2007

1 Councilmember Floreen,
2 Well you can file -- it would -- well it would go into effect then for revenue January of this
3 year.

4
5 Mr. Hagedoorn,
6 Yeah, because it is for tax year 2008. You will see some effects [inaudible].

7
8 Councilmember Floreen,
9 2008, so we'll see that though in -- that will affect the 2009 budget.

10
11 Unidentified,
12 It definitely will.

13
14 Councilmember Floreen,
15 And obviously your assumptions for that. So you have not yet been able to figure out
16 the impact of that?

17
18 Mr. Hagedoorn,
19 No, and -- and -- .

20
21 Councilmember Floreen,
22 Because that changed our base, right?

23
24 Mr. Hagedoorn,
25 Right. Because we don't have the underlying basis, the data, we cannot determine what
26 the effect is. And it's even more difficult because as income rises, the exemption will go
27 down. So that's when you really need to have that online data. We have spoken with the
28 State Controller and they did estimate, and they had \$11. -- .

29
30 Councilmember Floreen,
31 That's the 11 million number [inaudible].

32
33 Mr. Hagedoorn,
34 Yeah, 11.15, and they used 2005 data, so that's pretty recent. So I don't think we could
35 do any better than what they did.

36
37 Councilmember Floreen,
38 So that's -- but that is not figured into -- .

39
40 Mr. Hagedoorn,
41 That is not figured into the latest estimate, so that would then be -- .

42
43 Councilmember Floreen,
44 Pump it up.



November 27, 2007

1
2 Mr. Hagedoorn,
3 A reduction.

4
5 Councilmember Elrich
6 Is it up or down?

7
8 Mr. Hagedoorn,
9 It's a reduction of revenues. And going forward.

10
11 Councilmember Floreen,
12 So it increases the gap.

13
14 Mr. Hagedoorn,
15 Not just in 09 but 10 and so forth.

16
17 Councilmember Floreen,
18 Now the gap also is -- does not reflect any contract negotiations of course.

19
20 Mr. Beach,
21 Not explicitly.

22
23 Councilmember Floreen,
24 Because you don't have them yet.

25
26 Mr. Beach,
27 I mean to the extent that that could be a -- because we used an average growth figure,
28 which in the past was based in part, at least, on compensation improvements to the
29 extent that that can be accommodated within the 7% growth rate. It would be included,
30 but it's not specifically included.

31
32 Councilmember Floreen,
33 But 7% growth rate assume -- it assumes a continuation of current numbers.

34
35 Mr. Beach,
36 That's correct.

37
38 Councilmember Floreen,
39 But it -- I assume you can't -- you haven't added in anything else at this point in time.

40
41 Mr. Beach,
42 That's correct. That right.

43
44 Councilmember Floreen,



November 27, 2007

1 Okay, thank you.

2
3 Vice President Knapp,
4 Okay. Mr. Andrews.

5
6 Councilmember Andrews,

7 Thank you. Well all signs are that this is going to be a difficult budget year, and we had
8 one difficult budget year four years ago, and we had a savings plan at that time that was
9 considered slightly earlier than this one. And that total about \$18 million for that one that
10 was approved in December 2003. This one is much more ambitious with a target of \$64
11 million. And while I think that it is important to launch a savings plan given the clouds on
12 the horizon, I think it's also important to understand what the impact would be to get to
13 that number of 64 million at this point in the year because really it's a 4% reduction
14 because it's a half a year left starting in January of the fiscal year to get a 2% overall
15 reduction for the entire year. Given that 70% of costs in County government are
16 personnel and 90% in the school system are personnel, unless those were included,
17 you'd be looking at a 13% reduction in the non-personnel costs and about a 40%
18 reduction -- in County government, and about a 40% reduction in non-personnel costs
19 and MCPS to get to that target that has been outlined by the Executive. So does the
20 Executive have any limitations on what he wants to look at in terms of the agencies for
21 savings?

22
23 Mr. Beach,

24 What we've provided our departments with was the target. And they are going to be
25 expected to provide a specific plan to the County Executive on how they would reach
26 that target and what the consequences -- the service consequences would be of those
27 reductions. Based on that the County Executive would be making his decision on
28 whether or not those are the actions he agreed with.

29
30 Councilmember Andrews,

31 My point in asking was that is to highlight how difficult it is without addressing personnel
32 costs to find substantial savings, given that the great majority of costs in County
33 government and even more so in the school system is in personnel. You know, there
34 are some savings that you can find in not filling positions and in some cases vacancies,
35 lapses, but that's still at the margins really of the number. You noted the Council's
36 critical role in approving a budget savings plan and while we did approve most of the
37 recommended cuts that the County Executive proposed to achieve savings four years
38 ago under the then County Executive, we did reject, for example, a proposal to
39 decommission a fire engine that would have saved about \$600,000, but the County
40 Council concluded it was not a good idea. So we'll be, you know, a very important role
41 that the Council will have in reviewing whatever comes over as recommended cuts. But
42 I think it's important to lay out what would be involved in getting to a 4% reduction in
43 effect for a six-month period. That would be -- it's important to know what it would take
44 to get there if that is indeed the goal or something close to it.



November 27, 2007

1
2 Vice President Knapp,
3 Thank you. Mr. Leventhal.

4
5 Councilmember Leventhal,
6 Well what a difference a year makes. This time last year we had elected officials
7 promising to slow down the overheated housing market and the growth of employment,
8 and reading your memo now continued weakness in the housing market and a slow
9 down in the growth of employment have caused a substantial decline in projected
10 revenues in FY08 and FY09. I don't suggest that economic conditions are the result of
11 political rhetoric; I don't think they are. I think that the economy is cyclical and these
12 things tend to work themselves out. Fortunately, Montgomery County has fundamental
13 strengths that remain in place; we're a very desirable place to locate a business. We
14 have an extraordinarily adept educated workforce. We have beautiful natural resources.
15 We have proximity to the nation's capital. And we will get through this down cycle as
16 we've gotten through down cycles in the past. But it does bear saying that the growth
17 emergency of a year ago seems to have dissipated and we now see the consequences
18 of a decline in economic growth. And part of the decline in economic growth means
19 reduced revenues to do the things that government wants to do. And we're not going to
20 be as able to meet the needs of the poor and the hungry, and underachieving students
21 in the school system, and library materials and supplies, or fire engines. And there is a
22 correlation between the health of the economy and the revenues the government has to
23 spend. As Chairman of the Health and Human Services Committee, I certainly hope that
24 the Executive Branch will be in very, very close consultation with the Council. I'm not
25 sure of the meaning of the statement: "I am not asking departments and agencies for
26 detailed savings plans, but we are asking for a 2% reduction." I don't know how you get
27 to a 2% reduction without details.

28
29 Mr. Beach,
30 Well we expect that each department and agency would develop that and would work
31 on that basis.

32
33 Councilmember Leventhal,
34 But no details?

35
36 Mr. Beach,
37 Well what we initially wanted to avoid was sort of a time-consuming process that would
38 have delayed actually making the plans. I think what I understand pretty clearly is the
39 Council would like a different process, and I think that's what we'll certainly comply with.

40
41 Councilmember Leventhal,
42 Well speaking only on -- .

43
44 Mr. Beach,



November 27, 2007

1 [Inaudible] providing the specific implications of the plans.

2
3 Councilmember Leventhal,

4 Yeah, I mean, speaking only in my role as the Chairman of Health and Human Services
5 Committee, I'm intensely interested in the details. The other question I have is I was
6 encouraged by your comment, Joe, that we're working closely with MCPS. My -- I won't
7 be present this afternoon for the joint meeting with the school board. I regret it, Mr. Vice
8 President, but I can't be present. But my advice to the school system has been that it
9 work almost as -- that it work with you, Joe Beach, almost as if it were a county
10 government department this year; that I think it's going to be especially important this
11 year that we are in extremely close consultation on revenue forecasts; that we act as if
12 we were, you know, hand-in-glove. As much as I respect the independence of the
13 elected school board and the independence of MCPS as an independent agency, it is
14 half of our budget and we can't put the whole thing together without very, very close
15 communication and consultation with them. And I'm encouraged by the suggestion that
16 that seems to be taking place. I'd be interested in more information about how close that
17 consultation has been and what do you think is the likelihood that what the County
18 Executive asked for, he's saying 23.7 million of the savings will come from County
19 government, but a total savings of 64 million, clearly the school system is going to have
20 to come up with a big chunk of that balance. What do you think is the likelihood of that
21 occurring?

22
23 Mr. Beach,

24 Well, I don't like to speak for the School Board.

25
26 Councilmember Leventhal,

27 [Inaudible].

28
29 Mr. Beach,

30 I'm they'll be able to contribute toward the resolution of the gap, but to the level -- to the
31 magnitude, I think is something we're going to have to work out in more detail. But in the
32 past the school has been a good partner in this process and has contributed. And I'd
33 expect that they would continue that, you know, even though it would be difficult for
34 them to do it that they continue that for FY08.

35
36 Councilmember Leventhal,

37 Well, I just want to express the hope -- again, I can't be present his afternoon -- that we
38 -- we work as partners and that we don't find ourselves in the spring in a situation where
39 we, the County Council, who actually at the final end in May, have to balance the
40 budget, end up being faced with demands from the school system or requests or
41 desires or whatever that we know from the get-go that we aren't able to meet. The
42 information is right out there. The County Executive is very transparent here. There's no
43 confusion or lack of clarity. You're doing the best you can. You've got an excellent team
44 of economists working with you. We don't know everything, but as much as we know,



November 27, 2007

1 we're putting on paper and we're trying to be prudent. And all of that information is
2 thoroughly available to the school system. And they have similarly excellent
3 professional staff of numbers-crunchers, and I just hope that we are acting as partners
4 and that we -- that there aren't surprises or disconnects either on March 15th when we
5 get the County Executive's budget or in the weeks between then and May when we
6 actually have to do the hard work of adding up these numbers and making -- and
7 running totals that balance. So I just -- I appreciate the good working relationship that I
8 think this body's developed with the School Board, and sorry I can't attend the meeting
9 this afternoon, but hope that we can really work in partnership to get through this
10 together; not one of us setting up the other or anyone, you know, playing the blame
11 game.

12
13 Vice President Knapp,

14 Just to follow-up on that point. I've spoken with Board President Navarro last evening. I
15 talked to Dr. Weist this morning. I spoke with Dr. Hanson this morning and Dr. Johnson
16 at the college as well. And I think all recognize that there is -- that they are partners and
17 that they will be working with us to -- everyone expressed a willingness to work together
18 to try and reconcile whatever issues that we're going to confront over the coming year.
19 And so I was very pleased with all four of those conversations, and everyone's
20 willingness to really work in partnership.

21
22 Councilmember Leventhal,

23 Well great. Let me just -- last comment. I just want to say that I have great confidence in
24 our incoming President, Mr. Knapp. I mean I just want to point out for those who haven't
25 yet figured this out that much of this burden is going to be on his shoulders in the
26 coming months. And he's well-suited to it and we look forward to watching him handle
27 this challenge and giving him support in the months to come.

28
29 Vice President Knapp,

30 Well thank you. I appreciate that. And I know we, as a body, work well collectively to get
31 to the desired outcome with the County Executive, and we'll get there for the benefit of
32 the residents of our County. But thank you very much for your comments. Mr. Berliner.

33
34 Councilmember Berliner,

35 For the benefit of my colleagues who weren't able to join us yesterday on the MFP
36 Committee, I think it is worth noting that there has been a slight shift in the conversation
37 over the course of the last 24 hours in terms of the Executive's posture. If it's fair to say,
38 I believe yesterday the Executive's posture, if you read that letter, was in fact to get a
39 blessing from this Council that they would be free to make 2% cuts and that the details
40 in effect would be left to the Executive Branch, and that we would simply approve a 2%
41 reduction, and at that point allow the Executive Branch to do the nitty-gritty. I believe
42 what I am hearing today is that a reconsideration of that approach and a more formal
43 partnership with this Council, who has the ultimate responsibility with respect to these
44 matters; is that a fair observation, Mr. Beach?



November 27, 2007

1
2 Mr. Beach,
3 Yes, that would be.

4
5 Councilmember Berliner,
6 Thank you. I appreciate that -- that clarification. With respect to your letter -- the letter
7 from the County Executive. I was interested in particular in the sentence in the second
8 to last paragraph that reads: "unfortunately the numbers suggest that even with revenue
9 enhancements and midyear spending reductions, it will be necessary to make
10 reductions in existing service levels." Could you expand a little upon that and just share
11 with us what assumptions went into each of those phrases?

12
13 Mr. Beach,
14 Well if you just look at the numbers and the gap -- the \$400 million gap, and you make
15 certain assumptions about actions we could take, for instance going to current rates on
16 property taxes, which depending could be anywhere from 220 to 230 more in revenues;
17 you're only closing -- I just making assumptions. You're still a little more than halfway
18 there. So you've got to consider, you know, other options, other ways of resolving that
19 and not fully on the revenue side. And where would that come from? Well it would have
20 to come from existing levels -- existing programs and services, if all of the assumptions
21 here in terms of revenues and resources play out as we understand them to right now.
22 And so I think that would require us to look at some of our existing programs, our
23 existing service levels, staffing levels, and see if we can change that and make, you
24 know, based on all of our priorities, what's important to the Executive and to the
25 Council. And it may require us to reduce some existing programs. At this point, I can't
26 say in what departments and what services and what agencies, but it may come to that.
27 And I think that's a way in the past that we've approached resolving gaps is sort of a
28 burden sharing as you look at the taxpayer, the service level, the employer, the
29 employees, different ways of spreading out the difficulty of closing a gap.

30
31 Councilmember Berliner,
32 Thank you for that clarification.

33
34 Vice President Knapp,
35 Councilmember Trachtenberg.

36
37 Councilmember Trachtenberg,
38 I want to make one point and then ask a question. My point really is around the need to
39 get into the details and just going back to the remarks that were made by
40 Councilmember Leventhal, specific to HHS, it would seem to me that part of what we
41 have to have a good understanding of or the implications of the formula adjustments,
42 just as an example, that relates to the delivery of services for behavior health and
43 disability, just to give two examples. I've heard a lot of different things about those
44 adjustments, and it would seem to me that we're going to have to have a thorough



November 27, 2007

1 understanding of the consequence of those adjustments to be able to really make a
2 good sound judgment about reductions in program funding. And I think that's something
3 that I'm certainly going to explore in the conversation this afternoon. But I note is not in
4 the memo from the Executive, and I'd like some idea of a timeline, and what are you
5 anticipate -- I realize you can't give us an exact timetable today, but you must have
6 something carved in general terms as far as recommendations would be made -- when
7 conceivably could we start seeing something like that from the Executive?

8
9 Mr. Beach,

10 I think of in terms of -- at least from the Executive Branch, specific proposals and
11 actions probably could be delivered to the Council later in December; of course, while
12 you're on recess. But I expect before you come back on break, later in December we
13 would be able to deliver to you some specific proposals on the savings plan.

14
15 Vice President Knapp,

16 Mr. Elrich. Last comments then we've got to get downstairs because we also have a
17 State Legislative briefing, so you can understand the implications of that one.

18
19 Councilmember Elrich,

20 A couple of things. First, I can't let George's comments go [unaddressed. This \$400
21 million gap is not caused by growth policy and it's not caused simply by a slowdown in
22 growth. I mean the collapse of incomes has to do with the larger economy for which this
23 Council, I believe, has no impact. People's incomes are down and investments are
24 down, and if the market is any indication that's likely to get worse and that will have
25 diddlysquat to do with what Montgomery County does.

26
27 Councilmember Berliner,

28 Is that a technical term?

29
30 Councilmember Elrich,

31 That's a technical term. It's sort of like very little. And more importantly, I mean, it's not
32 like growth doesn't come with a price tag. You know, when you don't build a house or
33 an office doesn't move here, it's not like you're only losing the revenues, you're also
34 losing a whole host of expenditures that accompany. And I remind this Council that what
35 are we faced with? We're trying to add 250 policemen to keep pace with the population;
36 something that previous Councils did not do over a long period of time. We're building
37 the first fire station since 1981; something that the previous Councils did not do. There
38 are a whole host of things that are attached to the price of growth the previous Councils
39 never addressed. And so this Council is in the situation of trying to play catch up. The
40 whole basis of the im -- the raise in the impact fees was to try to get growth to pay for
41 itself. And I'd suggest had that been done 16 years ago and had we benefited from the
42 cumulative impact of additional fees for the last 16 years, we might not be in such a
43 deep hole as we're in today. So yeah a slowdown is going to have a bad impact on the
44 economy. Not raising adequate fees from development is also going to have an impact



November 27, 2007

1 on our budget. So it's not one thing that affects us, it's a multitude of things that affect
2 us. And I want to address the service delivery thing because I have somewhat different
3 concerns. Last year during the budget we talked about stovepipes. And I think myself
4 and others were willing to say new County Executive, new organization, new look at the
5 budget; what do we do? I didn't expect any sweeping changes to departmental
6 organization and how we did things. But I don't believe that everything we do, we do in
7 the most efficient manner. I think the mere fact that stovepipe is a word that we use tells
8 us that we know we're not doing things in the most efficient manner. And I'm not
9 completely convinced that every savings has to come at the price of a service. I still
10 believe that we can maintain services and should be able to provide adequate services,
11 but that we can also do a better job and more efficient job of delivering them. And, you
12 know, I had hoped and I continue to hope that the last year was spent looking very
13 closely at what departments do, how choices are made to spend money. When we
14 spend money on grants or, you know, money out of HHS for non-competitive contracts
15 that we're sure that every contract we give completes the mission of government and
16 the things that we want to do, that we're simply doing things because they sound good,
17 but we focus our expenditures on our core mission. And so I think that, you know, we
18 need to look at how we're organized and how we deliver things and not simply say if we
19 have to cut it's automatically a reduction in all services and a 2% cut across the board. I
20 think we have to look very carefully at what we're doing and how we're spending
21 money. And I've heard ample comments over the last year to indicate that we're not
22 even -- we can talk about some of the HHS and school stuff or the after-school
23 programs. We don't always know what we're doing. We don't always know why we're
24 doing it. We don't have adequate measures of whether what we're doing is effective.
25 And before we decide that a result of our actions is going to be a cut in services, we
26 ought to ask ourselves whether everything we're doing is effective. And I hope that's
27 part of a thorough review of where we are now.

28
29 Vice President Knapp,
30 Okay. Ms. Ervin.

31
32 Councilmember Ervin,
33 I just have a question on your projections for supplemental appropriations.

34
35 Mr. Beach,
36 Sure.

37
38 Councilmember Ervin,
39 You had mentioned that earlier in your remarks but I didn't -- can you tell me where
40 you're looking?

41
42 Mr. Beach,



November 27, 2007

1 Yeah, it would be in the packet -- I just want to make sure I got it. Well we are projecting
2 about 27.9 million in supplemental appropriations; about 4.5 million have already been
3 approved.

4
5 Unidentified,
6 Circle 23.

7
8 Mr. Beach,
9 Circle 23 by the Council-to-date. And we've broken out the chart for supplemental
10 appropriations between those that have been approved, those that are pending with the
11 County Council, and those that we have heard about in our potential. And so the total of
12 that is about -- nearly 28 million. By comparison, last year in the FY07 budget, the
13 Council approved about \$29.5 million worth of tax-supported supplemental
14 appropriations, the largest of which is usually associated with snow removal. So
15 historically this is a consistent figure.

16
17 Councilmember Ervin,
18 Thanks.

19
20 Vice President Knapp,
21 And our last comment, Ms. Floreen.

22
23 Councilmember Floreen,
24 Thank you. I just had -- was compelled to respond to Mr. Elrich.

25
26 Vice President Knapp,
27 And I would remind everyone we're going to have plenty of time to debate all the
28 various elements of the budget and growth over the course of the next seven months so
29 just this was just to make sure we understand all of the issues.

30
31 Councilmember Floreen,
32 Well, you know, we have to keep this going. I did ask last summer how much of our
33 budget was predicated on growth -- growth in income, growth in construction, growth in
34 jobs, employment, people. More people pay more taxes, generate more revenue that
35 fund our budget. So let's remember that that is a fundamental predicate. And I think the
36 number was a little less than 2% that Chuck provided for us. And that came out to about
37 170-some-odd million dollars, as I recall, or 140; I don't know. A good solid sum that our
38 budget assumes to sustain what we're doing today. Now we can criticize what other
39 people have done. One will find out after a while that that is easy when you haven't
40 done it for a couple of years and been through it all. But I will simply say that our budget
41 is predicated upon growth. That's what keeps the ship afloat. And as we add new
42 resources, new people, new objectives, new Councilmembers, we try to do more and
43 that requires more money. So that is the challenge that we face. I don't think -- certainly
44 this slowdown isn't -- directly attributable to this Council's vote last -- the week before,



November 27, 2007

1 but it's fair to say that is a component of our budget that needs to be respected for what
2 it is, which is a contributor. And if we ignore, if we reject that, if we think that we can
3 solve all problems by leaning on one particular sector of our economy and of our budget
4 resources, we're going to find that we're in a real box. And I think we're getting there
5 and we will see how the next few months ago.

6
7 Vice President Knapp,
8 And finally, Mr. Andrews had one very quick.

9
10 Councilmember Andrews,
11 I would just direct people's attention to Circle 14 in the packet, which is the addendum
12 to the Item 4. And I think it illustrates that the County Budget has been growing at a
13 pace that over a long period of time is not a sustainable pace. The operating budgets for
14 county agencies have gone up \$1 billion in the past four years from \$2.6 billion in FY04
15 to \$3.6 billion in this year, and that is a pace that's over 8% a year. So that may be
16 sustainable in very good economic times, but not all times are good. And so when we
17 hit the natural cycles, which include slowdowns, that pace is not sustainable. And the
18 great majorities of those cost increases are in personnel. So that is what drives the
19 budget at the level that it does, and that's what has driven the numbers up to \$3.6 billion
20 at this point. These programs that the Council has added are all for good purposes. And
21 we want to do more, but the pace that the County has been increasing spending is at a
22 pace that is not sustainable over a long period of time.

23
24 Vice President Knapp,
25 Thank you. And I thank all my colleagues for their comments and questions. I would
26 make just a couple of observations. First, I thank Mr. Beach and the Executive for
27 modifying the position from where they were yesterday. And I think to impose a flat 2%
28 on all departments is generally -- it doesn't allow you the flexibility to actually recognize
29 where there are greater priorities and lesser priorities. And I think to go in as you talked
30 a little bit about yesterday looking at some low hanging fruit, looking at places where
31 there's been historical under-spending, looking at potentially large purchases; there are
32 a number of things that we could begin to look at that could -- we can at least take the
33 first cut and see where that gets us to. And I think that's probably an important place to
34 start. And then we'll see where that gets us to and see what the next steps are. So I
35 appreciate the Executive's willingness to take a more flexible approach in looking to try
36 to get to that number. And I appreciate the comments of my colleagues, in which I think
37 clearly our partners -- MCPS, the college, Park and Planning are going to have to be
38 working with us as well. And I think they've all expressed a willingness. I know the
39 Executive has spoken with Dr. Weist as well, and so I know that those dialogues have
40 begun, and it's going to be important to make sure they're a part of it. I think you've
41 heard very clearly that the Council is interested in moving expeditiously. And to the
42 extent that the Executive has proposals that you're willing to forward as soon as
43 possible, we're willing to pull the committees together to begin the review process. If we
44 can do that before recess, I think that the Council is willing to begin that process



November 27, 2007

1 imminently. If we need pull people or pull people together throughout the holiday period
2 if we need to, I think we can probably make accommodations there as necessary so
3 that we can -- so full Council can take actions when it gets back on January 15th, if it
4 takes us to that point to pull all the pieces together as you indicated. But I think that you
5 have a willing partner on this side of the dais to make sure that we can get there and get
6 this resolved. I think it's important that we not understate the challenge we have in front
7 of us. By the same token, I think it's important that we don't necessarily overstate it at
8 this point. It's a challenge. We know it's going to be an issue that we're going to have to
9 work together to address. But I think we need to recognize that, as people have said,
10 this is cyclical, this is has happened, we've worked through it. This will happen again,
11 we'll work through it again. And we can make it through the next six or seven months
12 and working together to get there. So I appreciate your coming over to make the
13 presentation today and including information you've provided. I would also point out to
14 my colleagues that Mr. Farber put at your place a copy of the resolution that Council
15 passed on December 9, 2003, that outlines some of the items that were in the budget
16 savings plan at that point in time. And we also received from the Executive earlier last
17 week the year-end transfers for the FY07 Operating Budget, which also gives you some
18 sense as to where some historical under-spending have been and overspendings just
19 to give you a little better perspective as you start to review some of the different
20 proposals that may come over. With that that concludes our agenda items for this
21 morning. We have a State Legislative briefing downstairs. We have three public
22 hearings for this afternoon at 1:30, of which I believe there are only three speakers. And
23 remember that Item 8 has been modified so it's only public hearing; it's not public
24 hearing and action on this FY09 Spending Control for Washington Suburban Sanitary
25 Commission. And also remind and urge my colleagues that at 3:00 we have a meeting
26 with the Board of Education at the Carver Building, and would urge as many as are
27 possible to attend. I think it's going to be important -- clearly this year to make sure that
28 that is a strong and effective partnership in the work and closely with our Board of
29 Education colleagues, and this is a good way to get off to the right start. And so I
30 appreciate the issues raised this morning, and we look forward to working with you over
31 the course of the next few weeks to get underway and get those issues resolved.

32
33 Mr. Beach,

34 Thank you very much.

35
36 Vice President Knapp,

37 Thank you very much. We are in recess.

November 27, 2007



**TRANSCRIPT
November 27, 2007**

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Marilyn Praisner, President	Councilmember Michael Knapp, Vice-President
Councilmember Phil Andrews	Councilmember Roger Berliner
Councilmember Marc Elrich	Councilmember Valerie Ervin
Councilmember Nancy Floreen	Councilmember George Leventhal
Councilmember Duchy Trachtenberg	



November 27, 2007

1 Councilmember Knapp,

2 Good afternoon, ladies and gentlemen. This is a public hearing on Expedited Bill 27-07,
3 Personnel - Retirement - Investment Authority which would amend the investment
4 provisions of the employees' retirement system and retirement savings plan to conform
5 with the principals governing the investment and management of funds contained in the
6 Uniform Management and Public Employee Retirement Systems Act and the Pensions
7 Protection Act of 2007 and would generally amend County law governing retirement
8 investments. Quite a mouthful. A Management and Fiscal Policy Committee
9 worksession is tentatively scheduled for Thursday, November 29, 2007 at 2:00 p.m.
10 Persons wishing to submit additional comments should do so by close of business
11 today November 27, 2007 so that your views can be included in the material which staff
12 will prepare for Council consideration. Before beginning your presentation, please state
13 your name clearly for the record and spell any unusual names. We have one speaker
14 on behalf of the County Executive and the Board of Investment Trustees, Linda
15 Herman.

16
17 Linda Herman,

18 Good afternoon. For the record, I am Linda Herman, Executive Director of the Board of
19 Investment Trustees who oversee the investment programs for the County's three
20 retirement plans. I am here today on behalf of the County Executive and the Board to
21 testify in support of Bill number 27-07 Retirement Investments. The proposed Bill will
22 bring the employees retirement system and the retirement savings plan into
23 conformance with the state of Maryland's recently adopted provisions of the Uniform
24 Management of Public Employee Retirement Systems Act, UMPERSA. UMPERSA
25 modernizes, clarifies and makes uniform the rules governing the investment and
26 management of the assets of public retirement systems. Maryland's action was related
27 to work by the National Conference on Commissioners of Uniform State Laws. More
28 than 1 trillion in assets are managed in the United States in retirement systems for
29 public employees of state and local government. A mixture of state and local laws
30 govern these systems, unlike private retirement systems which are governed primarily
31 by federal law, the Employee Retirement Income Security Act ERISA. State and local
32 laws have not kept up with modern investment practices so that trustees for these
33 systems are frequently not able to maximize return for the level of risk that is
34 appropriate to these systems. The Uniform Law Commissioners created UMPERSA to
35 remedy the deficiency. The Act provides rules that permit public employee retirement
36 systems to invest their funds in the most productive and secure manner. UMPERSA
37 derives its investment principals from the Uniform Prudent Investor Act also prepared by
38 the National Conference of Commissioners of Uniform State Laws. 44 states and the
39 District of Columbia have adopted the Uniform Prudent Investor Act as the investment
40 standard for fiduciaries managing all types of trusts including pension trusts. Many state
41 and local pension plans use the Uniform Prudent Investor Act as their investment
42 standards. In addition, Baltimore, Howard, and Fairfax Counties have laws that follow
43 UMPERSA standards. In broad terms, UMPERSA protects participants and
44 beneficiaries of public retirement systems in two ways. First, the Act articulates the



November 27, 2007

1 fiduciary obligations of trustees and others with discretionary authority over various
2 aspects of a retirement system and ensures that trustees have sufficient authority to
3 fulfill their obligations by granting exclusive authority and sufficient control to manage
4 the assets effectively. Second, the Act facilitates effective monitoring of retirement
5 systems by requiring regular and significant disclosure of the financial and actuarial
6 status of the system both to participants and beneficiaries directly and to the public.
7 UMPERSA eliminates all categorical restrictions on the types of investments that
8 pension trustees may make because these restrictions limit the ability of trustees to
9 perform their fiduciary duties when investing retirement plan funds. In order to conform
10 with UMPERSA, the proposed amendments in Bill 27-07 remove the restrictions on the
11 types of investments the Board may direct an investment manager to make and modify
12 the definition of an investment manager. The amendment also reflects a change to
13 ERISA by the Pension Protection Act of 2006 which exempts certain assets held by
14 managers from being subject to ERISA's fiduciary standards and prohibited
15 transactions. Although not subject to ERISA fiduciary standards, the manager still
16 remains subject to other fiduciary standards. The proposed amendments will not
17 change how the Board selects, evaluates and monitors the investment managers
18 overseeing the retirement plan assets. The Board's investment program already is
19 structured around policies, procedures and a due diligence process that is prudent. We
20 look forward to working with the Council in its deliberations on this legislation.

21
22 Councilmember Knapp,

23 Thank you very much. Appreciate it. I see no questions. This concludes the public
24 hearing. Our next item is, this is a public hearing on Expedited Bill 28-07, Personnel -
25 Other Post Employment Benefits Trust (OPEB) – Establishment which would establish a
26 certain trust to fund certain County retiree benefit plans and establish a Board to
27 manage the trust. A Management and Fiscal Policy Committee worksession is
28 tentatively scheduled for Thursday, November 29, 2007 at 2:00 p.m. Persons wishing to
29 submit additional comments should do so by close of business today November 27,
30 2007 so that your views can be included in the material which staff will prepare for
31 Council consideration. Before beginning your presentation, please state your name
32 clearly for the record and spell any unusual names. We have one speaker on behalf of
33 the County Executive, Karen Hawkins.

34
35 Karen Hawkins,

36 Thank you.

37
38 Councilmember Knapp,

39 Thank you.

40
41 Karen Hawkins,

42 Good afternoon. For the record, I'm Karen Hawkins, Chief Operating Officer for the
43 Department of Finance for Montgomery County. I'm here today on behalf of the County
44 Executive to testify in support of Bill 28-07 Personnel Other Post Employment Benefits



November 27, 2007

1 Trust Establishment. The proposed Bill will create a trust to fund all or a portion of
2 certain post employment benefits, primarily health and life insurance. The Bill also
3 establishes an OPEB Board of Trustees to manage the trust. Creation of the trust
4 results from the implementation of Governmental Accounting Standards Board
5 statement number 45, accounting and financial reporting by employers for post
6 employment benefits other than pensions. Mouthful. Beginning in fiscal year 2008,
7 GASBY 45 requires the County to disclose its liability for post employment benefits
8 other than pensions in the footnotes to the County's financial statements. While the
9 GASBY statement does not require the County to fund the liability, it does require the
10 County to report expenses in its financial statements, and therefore reduce fund
11 balance or net assets by the amount of annual required contributions. The annual
12 required contribution is determined as a result of an actuarial valuation. GASBY permits
13 the use of a favorable discount rate in that valuation resulting in a reduced annual
14 required contribution and a reduced liability. If the County funds these benefits in a
15 separate trust the favorable discount rate would generally be the 8% assumed rate of
16 return on long-term investments used for the actuarial valuation for County's pension
17 plan. In the absence of a trust, GASBY requires the use of a discount rate similar to
18 investment returns on the County's operating funds, which is closer to 4%. The impact
19 on the annual required contribution and liability of having a trust arrangement in place is
20 generally to cut these amounts in half. The County Council included the first year of
21 OPEB funding in the approved FY 2008 budget in anticipation of creation of this trust.
22 Since the first year phased in amount was based on the expectation of a trust being
23 created, it is approximately one-half of what the amount would be if a trust was not
24 established. It is also the expectation of the rating agencies based on our discussions
25 with them over the last several years, that an OPEB trust would be established. The
26 language used to create the trust fund and the OPEB Board of Trustees which will
27 oversee the investment of the assets is modeled after the retirement plan trust found in
28 articles 3, 8 and 9 of chapter 33 of the County code. We look forward to working with
29 the Council in its deliberations on this legislation.

30
31 Councilmember Knapp,
32 Thank you. A couple questions. Ms. Floreen.

33
34 Councilmember Floreen,
35 Thank you. Does GASBY require a trust?

36
37 Karen Hawkins,
38 GASBY does not require a trust, but GASBY does provide guidance on the discount
39 rate that you're able to use in the actuarial valuation, whether you have a trust or not,
40 based on whether you have a trust or not.

41
42 Councilmember Floreen,
43 But GASBY doesn't set the rate?



November 27, 2007

1 Karen Hawkins,
2 GASBY does not set the rate.

3
4 Councilmember Floreen,
5 It's just -- .

6
7 Karen Hawkins,
8 Management must set the rate. But the rate must be based on the estimated
9 expectation of returns that can be generated. So if you have a trust, then it is seen that
10 you will be able to invest longer term and therefore generate higher returns, and in that
11 situation, the guidance from GASBY is that they would expect that your assumptions
12 would be similar to your pension plan assumptions. That's where we come up with the
13 8% rate of return.

14
15 Councilmember Floreen,
16 Right, but you could generate different numbers depending upon your choice of how
17 you invest it, the dollars. GASBY doesn't establish any of that.

18
19 Karen Hawkins,
20 If you get -- GASBY does not set the rate. That is a management decision. But that
21 management decision is based on the input of actuaries, and it is subject to oversight
22 and audit by the external audit firm.

23
24 Councilmember Floreen,
25 In other words, GASBY tells the people who project the revenue what rate they might
26 assume. Is that correct?

27
28 Karen Hawkins,
29 Could you rephrase your question?

30
31 Councilmember Floreen,
32 I'm just trying to understand this because GASBY can't require any kind of rate, nobody
33 requires a rate. It's just what's estimated to, in someone's actuarial calculations. Right?

34
35 Councilmember Knapp,
36 They just come up with what is an acceptable number.

37
38 Councilmember Floreen,
39 They come up, there's a number that they, someone uses somewhere, but it has
40 nothing to do particularly.

41
42 Councilmember Knapp,
43 Right.



November 27, 2007

1 Councilmember Floreen,
2 Hopefully, it's based on experience, but it's not.

3
4 Karen Hawkins,
5 There is a number.

6
7 Councilmember Floreen,
8 The market is the market.

9
10 Karen Hawkins,
11 There is a number that management determines to use in the actuarial valuation based
12 on input from the actuaries. And when you say hopefully based on experience, yes, it
13 needs to be based on experience, and there are actually experience studies that would
14 be done. For example, every three years or five years on all or most actuarial
15 assumptions to determine their reasonableness.

16
17 Councilmember Floreen,
18 But the point of putting the money in a trust would mean it's never, ever available for
19 any other purpose, which arguably is the case in any event.

20
21 Karen Hawkins,
22 Correct. And to the extent that you still have those plans in place, and still have benefits
23 to pay out. There is reversionary language that is built into the trust in case you get to a
24 situation where any of the plans, you discontinue the plans and after you have paid out
25 all the benefits, and then if you have any assets left, there is language built in that they
26 would revert to the County.

27
28 Councilmember Floreen,
29 At the end of the, you know, if the world came to an end.

30
31 Karen Hawkins,
32 In the case of national healthcare.

33
34 Councilmember Floreen,
35 [laughter]. Okay.

36
37 Linda Herman,
38 Ms. Floreen, just in response to your comment, if the money is invested by the County,
39 in the County's cash pool, there are regulations set by this state as to what that money
40 can be invested in. So the returns would not come up to the 8% of return that we are
41 assuming for the OPEB trust. The OPEB trust is assuming that these monies will be
42 invested in international stocks, bonds, in inflation protected securities. Instruments like
43 that cannot be used by the County's cash pool currently.



November 27, 2007

1 Councilmember Floreen,
2 So it's a more generous range of investment opportunities.

3
4 Linda Herman,
5 Exactly.

6
7 Councilmember Floreen,
8 Under this approach, okay.

9
10 Linda Herman,
11 Exactly if the money's put in trust.

12
13 Karen Hawkins,
14 I'm sorry, I didn't make that clear. And if the assets are invested in the County's
15 operating pool, that's where we would be required to use the lower investment rate of
16 return, an estimated or historical average on the operating investments, the 4%.

17
18 Councilmember Floreen,
19 Okay. Thanks.

20
21 Councilmember Knapp,
22 Thank you. Councilmember Trachtenberg.

23
24 Councilmember Trachtenberg,
25 Thank you Council Vice-President Knapp. I just wanted to underscore for colleagues the
26 expectation of the rating agencies, again based on conversations that I had last year
27 during the bond trip up to New York City with the Council President. The issue about the
28 creation of these trusts came up in every single agency we visited. So I just want to
29 underscore that for significance purposes. Thank you very much.

30
31 Councilmember Knapp,
32 There are no more questions. Thank you.

33
34 Karen Hawkins,
35 Thank you.

36
37 Councilmember Knapp,
38 This concludes this public hearing. Our next public hearing is a public hearing
39 concerning Spending Control Limits that the Montgomery County and Prince George's
40 County Councils must set for the FY-09 budget of the Washington Suburban Sanitary
41 Commission. The process requires that the Council set annual ceilings on WSSC's new
42 debt, debt service, water and sewer operation expenses and the maximum average rate
43 increase. The Council will also consider the potential expansion of the ready to serve
44 charge to fund the replacement of aging water and sewer mains. Before beginning your



November 27, 2007

1 presentations, please state your name clearly for the record and spell any unusual
2 names.
3
4 Councilmember Floreen,
5 Oh, don't all speak at once.
6
7 Councilmember Knapp,
8 There are no speakers for this hearing.
9
10 Unidentified
11 Action was deferred.
12
13 Councilmember Knapp,
14 No. Action was deferred, right. So, action was deferred on this item earlier this morning.
15 So this concludes our public hearings for the afternoon. The Council is in recess until
16 we rejoin the Board of Education at 3:00 at the Carver Building. Thank you very much.
17
18